

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID NATHANIEL ROBERTS,

No. 2:22-cv-02102-EFB (PC)

Plaintiff,

ORDER AND FINDINGS AND
RECOMMENDATIONS

CALIFORNIA STATE PRISON,
SACRAMENTO, et al.,

Defendants.

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On January 6, 2023, the court ordered plaintiff to, within 21 days, show cause why this case should not be dismissed, without prejudice, for failure to exhaust administrative remedies prior to filing suit. ECF No. 9. The time for acting has now passed and plaintiff has failed to respond to the court's order. Thus, it appears that plaintiff is unable or unwilling to show that this action should not be dismissed.

Accordingly, it is ORDERED that the Clerk of the Court randomly assign a United States District Judge to this action.

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1 Further, it is RECOMMENDED that this action be dismissed without prejudice for the
2 reasons set forth in the January 6, 2023 order to show cause (ECF No. 9).

3 These findings and recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
5 after being served with these findings and recommendations, any party may file written
6 objections with the court and serve a copy on all parties. Such a document should be captioned
7 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
8 objections shall be served and filed within fourteen days after service of the objections. The
9 parties are advised that failure to file objections within the specified time may waive the right to
10 appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
11 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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13 Dated: February 16, 2023.


14 EDMUND F. BRENNAN
15 UNITED STATES MAGISTRATE JUDGE

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